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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ALLAN PARMELEE,

Plaintiff,

v.

STEVE SUNDBERG, *et al.*,

Defendants.

Case No. C07-5567 FDB/KLS

REPORT AND  
RECOMMENDATION

**NOTED:**  
**August 22, 2008**

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. Plaintiff no longer wishes to pursue this action and Defendants stipulate to dismissal of Plaintiff's complaint without prejudice. Accordingly, the undersigned recommends that this action be dismissed pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

**DISCUSSION**

On March 14, 2008, Plaintiff filed a motion to revise the scheduling order and enlarge time or in the alternative to voluntarily dismiss his complaint without prejudice. (Dkt. # 15). Defendants argued against a revision of the scheduling order but asserted no objection to Plaintiff's alternative motion to dismiss. (Dkt. # 16). On April 15, 2008, the Court granted Plaintiff additional time to

1 serve the Defendants and extended the discovery deadline. (Dkt. # 20). Plaintiff was not satisfied  
2 with the Order and moved to revise the Order and requested voluntary dismissal without prejudice  
3 if no revision was granted. (Dkt. # 22). The motion was denied. (Dkt. # 24). Mr. Parmelee then  
4 sent a letter to the court requesting a ruling on his alternative motion for voluntary dismissal  
5 without prejudice. (Dkt. # 25).  
6

7 Defendants do not object to Plaintiff's motion to voluntarily dismiss this action without  
8 prejudice and stipulate to a dismissal of this action without prejudice. (Dkt. # 25).

### 9 CONCLUSION

10 The Court should dismiss this action without prejudice. A proposed order accompanies this  
11 Report and Recommendation.

12 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,  
13 the parties shall have ten (10) days from service of this Report and Recommendation to file written  
14 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those  
15 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time  
16 limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **August 22,**  
17 **2008**, as noted in the caption.  
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19 DATED this 6th day of August, 2008.  
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23   
24 Karen L. Strombom  
25 United States Magistrate Judge  
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